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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,389	08/20/2004	Herbert Walter	97086/00049	7213

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EXAMINER

LEE, JINHEE J

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/505,389

Applicant(s)

WALTER ET AL.

Examiner

Jinhee J. Lee

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>0805</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 30 is objected to because of the following informalities:

Claim 30 line 4-5, the phrase "the aperture" has an error. Examiner suggests "an aperture" instead to avoid insufficient antecedent rejection.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 15- are rejected under 35 U.S.C. 103(a) as being unpatentable over Coutre (4919625)..

Re claim 15, Coutre substantially discloses a profiled rail assembly comprising:

Art Unit: 2831

a profiled rail (10, track section) having a passage (66, channel) and a front entry point (26, slot), the passage (66) extending into the profiled rail (66);

a carrier (12, plug boxes for example) sized and shaped so as to engage, via the entry point (26), the passage (66) of the profiled rail (66) and whereby articles can be suspended or set down on the carrier (12);

a hook groove (unnumbered, portion of 30 holding d1 portion of 70, see figure 3);

a conductor rail (28 or 30) arranged within the passage (66) and including a plurality of current conductors (42, 44, 56, 58 for example);

a power supply line (200, plug connector, see column 2 lines 42-46 according to the numbering in the middle) sized and shaped so as to convey electricity to the conductor rail (28 or 30);

a feed line (46) connecting the current conductors (42, 44, 56, 58 for example) to a consuming unit (at 15, 16 for example) to convey electricity to the consuming unit (at 15, 16 for example); and

an adapter (204 for example) sized and shaped so as to insertably engage the passage (66) and to operatively engage the current conductors (42, 44, 56, 58 for example) in the passage (66) (see figures 1, 3, 7, 11 and 12).

Coutre does not explicitly disclose that the passage extends substantially horizontally from the front entry point; and the hook groove extends upwardly from the passage.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the passage extending substantially horizontally from the

Art Unit: 2831

front entry point; and the hook groove extending upwardly from the passage in order to have a horizontal suspending device, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Re claim 16, note that the device of Coutre includes,

a) the conductor rail (28 or 30) includes an insulating profile (unnumbered on 28 or 30) and wire channels (43, 45, 60, 62) having access points (unnumbered);

b) the current conductors (42, 44, 56, 58 for example) are arranged within the wire channels (43, 45, 60, 62) and can be tapped via the access points (unnumbered) along substantially the entire length of the current conductors (42, 44, 56, 58 for example) in a substantially uninterrupted manner;

c) the profile (66) includes a current-conducting groove (unnumbered) extending from the passage (66); and

d) the conductor rail (28 or 30) is arranged within the current-conducting groove (see figure 2)

Re claim 17, note that the device of Coutre includes,

a) the insulating profile (unnumbered on 28 or 30) of the conductor rail (28 or 30) has outer contours (unnumbered) and the current-conducting groove (unnumbered) has inner contours complimentary to the outer contours (unnumbered), such that the outer contours (unnumbered) fit into the inner contours;

b) the current-conducting groove (unnumbered) is arranged, remote from the entry point (26), in the depth of the passage (66) and, substantially perpendicularly to the passage; and

c) the access points (unnumbered) open substantially perpendicularly to the passage (66) (see figure 2).

Re claim 18, note that the device of Coutre includes,

a) the insulating profile (unnumbered on 28 or 30) has a substantially M-shaped cross section with a top and side legs;

b) the two access points (unnumbered) are each located at the bottom and within the side legs of the M-shaped cross section; and

c) the wire channels (43, 45, 60, 62) and the current conductors (42, 44, 56, 58 for example) arranged therein are each located at the top and within the side legs of the M-shaped cross section (see figures 1 and 2).

Re claim 19, note that the device of Coutre includes,

a) the passage (66) has an end defined by a base plate (18);

b) the base plate (18) has a top extension (past 46 for example, would be top, if rearranged as discussed above) extending upward and a bottom extension (toward 40 for example, if rearranged as discussed above) extending downward, beyond the region of the incoming passage (66);

c) the hook groove (unnumbered) extends upward, adjacent the base plate (18);
and

d) an arresting groove (unnumbered at entry point of 28 for example) extends downwards, out of the passage (66) (see figure 2).

Re claim 24, note that the device of Coutre includes, wherein the carrier is a shelf (has a ledge at 12 for example) having a rear edge (70 head for example) sized and shaped so as to engage the passage of the profiled rail.

Re claim 25, Coutre substantially discloses the claimed invention except wherein, the adapter can be pushed into the passage independent of the shelf for power take-off. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the adapter able to be pushed into the passage independent of the shelf for power take-off, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Re claim 27, note that the device of Coutre includes, wherein the carrier is a carrying arm which includes a bar part (14 for example) with a plug-in end (70 for example), and at least one tongue element (unnumbered at d4 for example) at the plug-in end which can be plugged into the passage (66) of the profiled rail; and the plug-in end is provided with an upwardly directed (if rearranged as discussed above) hook (unnumbered at d1 for example) which is sized and shaped so as to engage in the hook groove (unnumbered).

Re claim 28, Coutre substantially discloses the claimed invention except wherein, the plug-in end of the carrier has a tapered bottom portion. However, it would have been obvious to modify the device of Dickey et al. with different shape of bottom, which is not tapered, since the invention would still work without the tapered bottom portion. A person having ordinary skill in the art would have found it obvious to modify the bottom

portion of the carrier with a tapered portion in order to mate with the passage. A change in shape or configuration is generally recognized as being within the level of ordinary skill in the art. *In re Daily*, 149 USPQ 47 (CCPA 1976).

Re claim 29, note that the device of Coutre includes, wherein the adapter (204 for example) includes:

- a) a rotatable pin (146 Rivet for example);
- b) on the input side:
 - ba) contact lugs (76 for example) which can be pivoted on the rotatable pin and are intended for power take-off from the current conductors (42, 44, 56, and 58 for example),. and
 - bb) a tap (72 for example) for the grounding conductor; and
- c) on the output side:
 - ca) line connections (152 for example) and a ground-contact connection (via stem 14), which are connected to the feed line (78, 79 with 14) to the consuming unit (15, 16 for example) (see figures 1,3, 7 and 11).

Allowable Subject Matter

5. Claims 20-23, 26 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Re claims 20-22, prior arts do not teach or suggest the combination of a profiled rail assembly with a top clearance which slopes upward in the direction of the entry point, a bottom clearance which is inclined downward in the direction of the base plate; a strip groove formed in the bottom strut, in the vicinity of the entry point, and a non-slip and damping, extruded profile arranged within the strip groove (18); and at the end of the passage, an axially accessible raised molding extending along the profiled rail to engage the adapter.

Re claim 23, prior arts do not teach or suggest the combination of a profiled rail assembly with a cutout on the profiled rail, into which a connection terminal is inserted; a plug coupling comprising a bushing, which is positioned in the cutout alongside the connection terminal, and a plug, which can be coupled to the bushing from the outside and to which the current-supplying feed line is connected.

Re claim 26, prior arts do not teach or suggest the combination of a profiled rail assembly with the shelf that includes an aperture sized and shaped so as to receive the adapter, further wherein the adapter is sized and shaped so as to be inserted into the passage together with the shelf.

Re claim 30, prior arts do not teach or suggest the combination of a profiled rail assembly with the adapter with a housing with an optional plate groove in the housing for insertion into an aperture of a shelf, the output connector merging into a conduit; a rotary knob, which is accessible to the user and is connected to the pin; a pin bearing in the housing, and an inhibitor acting on the pin; and a catch which is seated on the pin.

Response to Arguments

6. Applicant's arguments filed 8/29/05 have been fully considered but they are not persuasive.

In response to applicant's arguments that Coutre reference does not disclose carrier sized and shaped so as to engage the profiled rail, the hook groove extending upwardly from the passage, examiner reiterates the rejection which states that it would be obvious to rearrange the profiled rail horizontally, so that the hook groove extends upwardly from the passage.

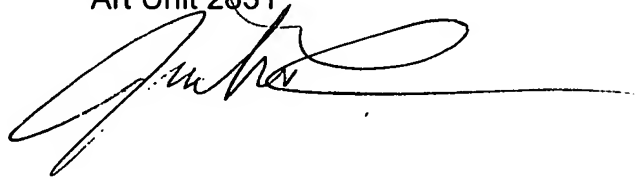
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinhee J Lee whose telephone number is 571-272-1977. The examiner can normally be reached on M, T, Th and F at 6:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A Reichard can be reached on 571-272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jinhee J Lee
Patent Examiner
Art Unit 2831

A handwritten signature in black ink, appearing to read 'Jinhee J Lee', is written over the printed name and title.

jil